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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C. 20554

February 5, 2001

IN REPLY REFER TO:  
1800B3

Ernest T. Sanchez, Esq.  
2000 L Street, N.W., Suite 200  
Washington, D.C. 20036

In re: KALW(FM), San Francisco, CA  
Facility ID No. 58830  
San Francisco Unified School District  
File No. BRED-19970801YA

Petition to Deny

Motion to Place Under Seal

Dear Mr. Sanchez:

We have before us: (1) the captioned application of the San Francisco Unified School District ("SFUSD") for renewal of license for station KALW(FM), San Francisco, California; (2) a "Petition to Deny" that application, filed by Golden Gate Public Radio ("GGPR"); and (3) various motions and related pleadings. In this letter, we request additional information responsive to specific allegations raised by GGPR, and we grant to the extent specified below SFUSD's uncontested March 18, 1998 "Motion to Place Under Seal, Redact, or Remove Exhibit" ("Motion to Place Under Seal").

*Motion to Place Under Seal.* In a reply pleading filed on February 18, 1998, GGPR attaches as Exhibit C to the Declaration of Jason Lopez fourteen pledge sheets from KALW(FM)'s April 1997 on-air pledge drive. These forms contain personal and proprietary information about the individual donors. SFUSD objects to the use of these documents because, among other reasons, they violate the donors' right to the privacy of such information. GGPR concedes that the initial Exhibit C contains privileged financial information that it did not intend to release to the public.

We concur with SFUSD's concerns. We will therefore grant SFUSD's motion to the extent that we will remove from all Commission copies of GGPR's February 18, 1998 reply pages 1-14 of Exhibit C to the Declaration of Jason Lopez.<sup>1</sup> Cf. 47 C.F.R. §§ 0.457(d), 0.459.

<sup>1</sup> We note that redacted copies of each of those pages is submitted as part of a March 31, 1998 GGPR responsive

*Substantive Allegations.* Among the allegations raised by GGPR is the charge that the KALW(FM) public inspection file is incomplete. Specifically, GGPR charges that KALW(FM) (1) failed to file and place in its public inspection file supplemental ownership reports concerning changes in school board membership, as required by 47 C.F.R. §§ 73.3527 (a)(4) [now 73.3527(e)(4)] and 73.2615(f);<sup>2</sup> (2) failed to maintain the quarterly issues/programs list in the public file between January of 1991 and April of 1997, during which time twenty five such reports should have been placed in the file pursuant to what was then Section 73.2527(a)(7) [now Section 73.3527(e)(8)]; and (3) failed to adequately maintain donor lists under Section 73.3527(a)(8) [now Section 73.3527(e)(9)]. We have reviewed SFUSD's responsive pleadings and motions, and it appears that SFUSD has not addressed these specific allegations.

Accordingly, we direct SFUSD to respond to the following questions:

1. On August 1, 1997, when the subject license renewal application was filed, did the KALW(FM) public inspection file contain all of the ownership and supplemental ownership reports required to be kept in the file by then Section 73.3527?
  - a) If the answer is "no," detail any omission or deficiency. If the answer is "yes," please include a copy of each such report with the response to this inquiry letter.
2. On August 1, 1997, did the KALW(FM) public inspection file contain all of the issues/programs lists required by then Section 73.3527? Did any lists that were in the file contain the information required by Section 73.3527?<sup>3</sup>
  - a) If the answer is "no," to either inquiry, detail any omission or deficiency. If the answer is "yes," include a copy of each issues/programs list with the response to this letter.
3. On August 1, 1997, did the KALW(FM) public inspection file contain a complete listing of donors supporting specific programs, as required by then Section 73.3527?<sup>4</sup>

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pleading entitled "GGPR's Opposition to SFUSD's Motion to Dismiss GGPR's Petition to Deny and GGPR's Opposition to SFUSD's Motion to Strike, in Whole or in Part, GGPR's Reply to SFUSD's Opposition and Alternative Motion for Leave to File Surreply and GGPR's Response to SFUSD's Motion to Place Under Seal, Redact, or Remove Exhibit."

<sup>2</sup> GGPR indicates that three board changes occurred subsequent to the most recent (January 1991) ownership report found in the KALW(FM) public inspection file.


<sup>3</sup> Section 73.3527 requires that, every three months, station file "a list of programs that have provided the station's most significant treatment of community issues during the preceding three-month period. . . The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment [and] the description of the programs shall include . . . the time, date, duration, and title of each program in which the issue was treated."

- a) If the answer is "no," detail any omission or deficiency.
4. If the answer to any of the above questions is "no," detail when and precisely what steps were instituted to correct any problem and ensure that the public inspection file contained all requisite materials?
5. As of the date of this letter, is the KALW(FM) public inspection file now complete?
- a) If the answer to any of questions 1-3 above is "no," and presuming that the public inspection file is now complete and current, give the date on which the KALW(FM) public inspection file contained all required materials.

We also direct SFUSD to limit its response to answering to the specific inquiries made above.<sup>5</sup> Any extraneous matter will not be considered. The answers provided should be labeled clearly and organized *seriatim* according to the number and/or letter of each specific inquiry, and SFUSD should serve a copy of the responsive document both GPRR and its counsel, Jeffrey A. Berchenko, Esq.

We will withhold action on the KALW(FM) license renewal application and petition for 30 days from the date of this letter to enable SFUSD to prepare and submit a response. The response should be filed in paper form in triplicate with the Office of the Secretary and contain an affidavit of a KALW(FM) principal or management-level employee with personal knowledge of the facts reported.

Sincerely,

  
Linda Blair, Chief  
Audio Services Division  
Mass Media Bureau

cc: San Francisco Unified School District  
Golden Gate Public Radio  
Jeffrey A. Berchenko, Esq.

Federal Communications Commission		Docket No. <u>94-19</u>		Exhibit No. <u>13</u>	
		Presented by <u>2/5</u>			
Disposition		Identified <u>9/16/95</u>	Received <u>9/16/95</u>	Rejected	
		Reporter <u>E. Ramirez</u>			
		Date <u>9/16/95</u>			

<sup>4</sup> We do not consider the preferences expressed by those making donations during pledge to constitute support for a specific program such that the donor's pledge form or card must be kept in the public inspection file.

<sup>5</sup> We also remind SFUSD that its recordkeeping obligations predate the hiring of Jeffrey Ramirez as KALW(FM) General manager on August 5, 1996.